



DEPARTMENT OF TRANSPORTATION

[4910-22-P]

Federal Highway Administration

Buy America Waiver Notification

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice provides information regarding the FHWA's finding that a Buy America waiver is appropriate for the use of non-domestic motor and machinery brakes for the Sarah Mildred Long Bridge Replacement project in the State of Maine.

DATES: The effective date of the waiver is [INSERT DATE ONE DAY AFTER PUBLICATION IN FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, 202-366-1562, or via e-mail at gerald.yakowenko@dot.gov. For legal questions, please contact Mr. Jomar Maldonado, FHWA Office of the Chief Counsel, 202-366-1373, or via e-mail at jomar.maldonado@dot.gov. Office hours for the FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the Federal Register's home page at: <http://www.archives.gov> and the Government Printing Office's database at: <http://www.access.gpo.gov/nara>.

Background

The FHWA's Buy America policy in 23 CFR 635.410 requires a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid construction project. The regulation also provides for a waiver of the Buy America requirements when the application would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available. This notice provides information regarding the FHWA's finding that a Buy America waiver is appropriate to use non-domestic motor and machinery brakes for the Sarah Mildred Long Bridge Replacement project in the State of Maine.

In accordance with Title I, Division A, section 122 of the "Consolidated and Further Continuing Appropriations Act, 2012" (Pub. L. 112-55), the FHWA published on March 5, a notice of intent to issue a waiver for the following non-domestic bridge items for use in the Sarah Mildred Long Bridge Replacement project in Maine: 1) motor brakes; 2) machinery brakes; 3) counterweight sheave bearings; 4) deflector sheave bearings; 5) operating drum bearings; and 6) span lock bearings. The notice was published on FHWA's Web site at <http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=96>. The FHWA received 27 comments in response to the publication. Eight commenters expressed support for the waiver of the items. Three support the waiver with conditions. One of those supporting commenters suggested that the waiver may be granted for a period of time if the components are not locally readily available. Two of those supporting commenters stated that a waiver should be granted only when all efforts are made to ensure that domestic products are not available. Fourteen commenters opposed the

waiver and some provided names of potential domestic manufacturers of the components. Potential domestic manufacturers suggested were Oregon Works, Steward Machine, Hardie-Tynes, Timken Steel Corporation, Philadelphia Gear, and JC Machine.

The Maine DOT made contact with the companies to verify domestic availability and possible supply of the items. Based on information received from those companies, Jeff Folsom of Maine DOT provided comments on April 2 stating that Maine DOT was withdrawing the waiver request for the counterweight sheave bearings, deflector sheave bearings, operating drum bearings, and span lock bearings. There were no domestic manufacturers of motor and machinery brakes identified. During the 15-day comment period, the FHWA conducted an additional nationwide review to locate potential domestic manufacturers of the motor and machinery brakes. Maine DOT also made additional contact with Philadelphia Gear, Hardie-Tynes, New Jersey DOT, and JC Machine. On April 4 Hardie-Tynes responded to Maine DOT that it cannot furnish machinery brakes. On April 17 Philadelphia Gear responded that it only manufactures gear boxes and large gears for moveable structures. The New Jersey DOT could not provide specific information on domestic manufacturers of moveable bridge components that it used in the past. Based on all the information available to the Agency, the FHWA concludes that there are no domestic manufacturers of the motor and machinery brakes.

In accordance with the provisions of section 117 of the SAFETEA-LU Technical Corrections Act of 2008 (Pub. L. 110-244, 122 Stat. 1572), the FHWA is providing this notice of its finding that a waiver of Buy America requirements is appropriate because the products are not produced in the United States in sufficient and reasonably available quantities which are of a satisfactory quality (23 U.S.C. 313(b)(2);

23 CFR 635.410(c)(1)(ii)). The FHWA invites public comment for an additional 15 days following the effective date of the finding. Comments may be submitted via the above link to the FHWA Web site.

(Authority: 23 U.S.C. 313; Pub. L. 110-161; 23 CFR 635.410)

Dated: June 2, 2014.

Gregory G. Nadeau,
Deputy Administrator,
Federal Highway Administration.

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